

AUG 26 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VICTORIA GARCIA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 09-70999

Agency No. A078-656-862

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted August 16, 2013**
San Francisco, California

Before: REINHARDT, NOONAN, and HURWITZ, Circuit Judges.

After removal proceedings were instituted against Victoria Garcia, a Mexican citizen, she conceded removability and applied for asylum and cancellation of removal. Garcia later withdrew her asylum claim.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

An Immigration Judge denied relief and the Board of Immigration Appeals (“BIA”) dismissed Garcia’s appeal. The BIA later denied Garcia’s subsequent motion to reopen based on changed country conditions. Garcia petitions for review of the denial of the motion to reopen. We deny her petition.

The motion to reopen asserted that the only person Garcia could live with in Mexico was her gay cousin. She argued that because gays are mistreated in Mexico, it would be dangerous for her to live with him. Even assuming that Garcia’s motion to reopen can be based on her cousin’s sexual orientation, the BIA did not abuse its discretion in denying it. The motion was premised on changed country conditions, and the evidence before the BIA suggested that conditions had improved for gays in Mexico.

DENIED.